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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,662	07/29/2003	Luciano Nedbal	114208-016	6394

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EXAMINER

SAKRAN, VICTOR N

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 07/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,662

Applicant(s)

NEDBAL ET AL.

Examiner

VICTOR N SAKRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 July 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-11, 18 and 19 is/are rejected.
7) ☒ Claim(s) 12-17 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 7/29/03 & 1/2/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-11, 18 and 19, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hudson U. S. Patent No. 6,533,335 in view of European Patent No.1,088,490 to Matsushima et al (cited by Applicant) and Albanese et al U. S. Patent No. 3,409,322.

Hudson discloses the general combination claimed of a zipper pull comprising a slider body (15) which is fixed to respective portions of an article (12) for

selectively engaging and disengaging opposed engaging elements by operating said zipper pull, a pull tab (16) movably connected to said slider body (15), and a cover member (22) hingedly connected to the pull tab, said cover defining a receptacle (20) having guide means (slot) for receiving and holding said pull tab therein, wherein said receptacle is attached at one end thereof to the pull tab (16) and is movable between a first locking position in which the pull tab (16) is concealed within said cover and a second open position in which the pull tab is revealed out of said cover, said cover member (22) is further provided with an end portion (44) axially extending with respect to the pull tab as a closure device for said zipper pull; see Figures 2-4, 8-10; the abstract; column 1, lines 65-67; column 2, lines 4-9, 43-45; column 3, and lines 5-8, except that the reference to Hudson does not show a cover having a convex outer surface and a concave inner surface and said cover made of a soft material. Matsushima et al teaches the use of a similar zipper pull device assembly including a cover (5) defining a substantially convex outer surface and a concave inner surface, and the use of soft material such as rubber; see Figures 1, 4; column 8, lines 28-31; column 12, lines 46-53. Albanese et al teaches the use of cover (20) having a convex outer surface and a concave inner surface in a zipper fastener; see Figures 1, 3, 6, and column 2, lines 1-10. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the outer and inner surfaces of the cover (22) in Hudson by merely forming an inner concave surface and an outer convex surface and further forming its cover from a soft material such as

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rubber in the manner taught, disclosed and suggested by Matsushima et al and Albanese et al; especially, since such modification involves only routine skill in the art.

Furthermore, the particular shape of the of the cover member along with the various elements is considered to be no more than a matter of design choice obvious to one having ordinary skill within the art at the time the invention was made, especially, since it has been held that the particular change in shape of an element in a prior art device is such a change considered no more than an obvious matter of design choice to one having ordinary skill within in the art. See *In Re Dailey*, 357 F. 2d 669, 149 USPQ 47 (CCPA 1954).

Moreover, the particular location and/or the arrangement selected of an elements is also considered to be no more than an obvious matter of design choice to one having ordinary skill within the art, especially, since it has been held that rearranging pa an invention is involves only routine skill in the art. See *In Re Japikse*, 86 USPQ 70.

Furthermore, Applicant is reminded that in considering the disclosure of a reference, it is proper to take into account not only specific teaching of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom; see *In re Preda*, 401 F2d 825, 826, 159 USPQ 342,344 (CCPA1968).

As to the particular type of material used and to form the cover member is considered to be no more than an obvious matter of design choice within the skill

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in the art, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See *In Re Leshin*, 125 USPQ 416.

Claims 12-17, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant's attention is directed to the art cited herein, and of record, as showing structure related to Applicant's disclosed invention.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTOR N SAKRAN whose telephone number is 703-308-2224. The examiner can normally be reached on 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. swann can be reached on 703-308-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 29, 2004


VICTOR N SAKRAN
Primary Examiner
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